



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 31, 1994

Mr. James R. Raup  
McGinnis, Lochridge & Kilgore, L.L.P.  
1300 Capitol Center  
919 Congress Avenue  
Austin, Texas 78701

OR94-024

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.<sup>1</sup> We assigned your request ID# 21026.

Austin Community College (the "college"), which you represent, has received a request for information relating to persons accepted into the college's school of nursing for classes beginning in January 1994. Specifically, the requestor seeks each applicant's cumulative GPA, scores on "Assessment or Asset" test, number of electives completed, number of times previously reviewed, and age. You claim that sections 552.101 and 552.114 of the act except the requested information from required public disclosure.

Section 552.101 of the act excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.114 of the act excepts "information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates the requirements of the federal Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, into the act. Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein . . . ) of students without the written consent of their parents to any individual, agency, or organization . . . .

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<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

20 U.S.C. § 1232g(b)(1). "Education records" are records that

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

*Id.* § 1232g(a)(4)(A); *see also* Open Records Decision Nos. 462 (1987) at 14-15; 447 (1986).<sup>2</sup> Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978).

The requestor does not seek the names or any other information that would tend to identify persons offered admission to the school of nursing. We conclude, therefore, that because release of the requested information will not allow the requestor to personally identify particular students, neither FERPA nor section 552.114 of the act excepts the requested information from required public disclosure. Accordingly, the college must release the requested information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Open Government Section

MRC/GCK/rho

Ref.: ID# 21026

cc: Ms. Carol Belew  
2207-B Stamford Lane  
Austin, Texas 78703

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<sup>2</sup>The phrase "student record" in section 552.114 has generally been construed to be the equivalent of "education records." Thus, our resolution of the availability of this information under FERPA in this instance also resolves the applicability of section 552.114 to the requested information. *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982).